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Attorneys for Complainant

**BEFORE THE
PHYSICAL THERAPY BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against: Case No. 1D-2002 63135

JENNIFER STERNS
5717 Baltimore Drive, #117
La Mesa, CA 91942

A C C U S A T I O N

Physical Therapist Assistant
License No. AT 2917

Respondent.

Complainant alleges:

PARTIES

1. Steven K. Hartzell (Complainant) brings this Accusation solely in his official capacity as the Executive Officer of the Physical Therapy Board of California, Department of Consumer Affairs.
2. On or about October 10, 1992, the Physical Therapy Board of California issued Physical Therapist Assistant License No. AT 2917 to JENNIFER STERNS (Respondent). The Physical Therapist Assistant License was in full force and effect at all times relevant to the charges brought herein and will expire on January 31, 2004, unless renewed.

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JURISDICTION

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3. This Accusation is brought before the Physical Therapy Board of

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California (Board), Department of Consumer Affairs, under the authority of the following laws.

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All section references are to the Business and Professions Code unless otherwise indicated.

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4. Section 2609 of the Code states:

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The board shall issue, suspend, and revoke licenses and approvals to practice physical therapy as provided in this chapter.

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5. Section 2660 of the Code states:

The board may, after the conduct of appropriate proceedings under the Administrative Procedure Act, suspend for not more than 12 months, or revoke, or impose probationary conditions upon, or issue subject to terms and conditions any license, certificate, or approval issued under this chapter for any of the following causes:



(d) Conviction of a crime which substantially relates to the qualifications, functions, or duties of a physical therapist or physical therapy assistant. The record of conviction or a certified copy thereof shall be conclusive evidence of that conviction.



(f) Habitual intemperance.

(g) Addiction to the excessive use of any habit-forming drug.

(i) Conviction of a violation of any of the provisions of this chapter or of the State Medical Practice Act, or violating, or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any provision or term of this chapter or of the State Medical Practice Act.

(l) The commission of any fraudulent, dishonest, or corrupt act which is substantially related to the qualifications, functions, or duties of a physical therapist.

6. Section 2661 of the Code states:

A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge of a felony or of any offense which substantially relates to the qualifications, functions, or duties of a physical therapist is deemed to be a conviction within the meaning of this article. The board may order the license suspended or revoked, or may decline to issue a license, when the time for

1 appeal has elapsed, or the judgement of conviction has been affirmed on appeal or
2 when an order granting probation is made suspending the imposition of sentence,
3 irrespective of a subsequent order under Section 1203.4 of the Penal Code
4 allowing that person to withdraw his or her plea of guilty and to enter a plea of
5 not guilty, or setting aside the verdict of guilty, or dismissing the accusation,
6 information, or indictment.

7. Section 2239 of the Code states:

8 (a) The use or prescribing for or administering to himself or herself, of any
9 controlled substance; or the use of any of the dangerous drugs specified in Section
10 4022, or of alcoholic beverages, to the extent, or in such a manner as to be
11 dangerous or injurious to the licensee, or to any other person or to the public, or to
12 the extent that such use impairs the ability of the licensee to practice medicine
13 safely or more than one misdemeanor or any felony involving the use,
14 consumption, or self-administration of any of the substances referred to in this
15 section, or any combination thereof, constitutes unprofessional conduct. The
16 record of the conviction is conclusive evidence of such unprofessional conduct.

8. Section 4022 of the Code states:

ADangerous drug@ or Adangerous device@ means any drug or device
unsafe for self-use, except veterinary drugs that are labeled as such, and includes
the following:

(a) Any drug that bears the legend: A Caution, federal law
prohibits dispensing without prescription, @ARx only, @ or words of
similar import.

(c) Any other drug or device that federal or state law can be
lawfully dispensed only on prescribed or furnished pursuant to
Section 4006.

9. California Code of Regulations, title 16, section 1399.20, states:

For the purposes of denial, suspension or revocation of a license or
approval, pursuant to Division 1.5 (commencing with Section 475) of the code, a
crime or act shall be considered to be substantially related to the qualifications,
functions or duties of a person holding a license or approval under the Physical
Therapy Practice Act if to a substantial degree it evidences present or potential
unfitness of a person to perform the functions authorized by the license or
approval in a manner consistent with the public health, safety or welfare. Such
crimes or acts shall include but not be limited to the following:



(a) Violating or attempting to violate, directly or indirectly, or
assisting in or abetting the violation of, or conspiring to violate any
provision or term of the Physical Therapy Practice Act.

(c) Violating or attempting to violate any provision or term of the
Medical Practice Act.

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1 c. On or about November 14, 2002, respondent pled guilty
2 and was convicted of Count 1 - violating Health and Safety Code section
3 11377(a) and Count 2 - violating Vehicle Code section 14601.1(a). As to her plea
4 for violating Vehicle Code section 14601.1(a), respondent was placed on three
5 years probation and ordered to pay fines. As to her plea for violating Health and
6 Safety Code section 11377(a), the judgment against respondent was deferred for
7 18 months, per a Penal Code section 1000 motion, on the condition she enroll,
8 attend, and successfully complete a substance abuse program; abstain from
9 alcohol and drugs; attend two Narcotic Anonymous meetings a week; and
10 undergo random drug testing. Respondent failed to enroll in a substance abuse
11 program and was ordered back to Court effective January 31, 2003. Respondent
12 failed to appear for this Court date and a warrant will be issued for her arrest.

13 **December 29, 2001 Arrest/September 3, 2002 Conviction**

14 d. On or about December 29, 2001, respondent was placed
15 under a citizen=s arrest for stealing tips from a tip jar belonging to an employee
16 of a coffee cart outside the Viejas Casino. Respondent was cited and released
17 after signing a APromise to Appear@ Misdemeanor Citation No. 766238.

18 e. On or about December 21, 2001, a complaint was filed in
19 Superior Court of California, County of San Diego, East County Division, entitled
20 *The People of the California v. Jennifer Faith Sterns*, Case No. C218128,
21 charging respondent with Count 1 - violating Penal Code section 484 [petty theft].

22 f. On or about May 28, 2002, respondent was arrested for
23 violating her written promise to appear in Court on January 16, 2002.

24 g. On or about September 3, 2002, respondent pled guilty and
25 was convicted of violating Count 1 - Penal Code section 484/488 [petty theft].
26 She was sentenced to three years probation ordered to pay fines and serve 13 days
27

1 in jail.

2 **May 27, 2001 Arrest/May 30, 2002 Conviction**

3 h. On or about May 27, 2002, respondent was attempting to
4 gain entry into the Lutheran Church. She was found standing near the backdoor
5 of the building holding a screwdriver and a folding knife. There were fresh pry
6 marks on the door and doorframe where respondent was standing. The window
7 screen also appeared to be bent as if someone had tried to pry off the screen.

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9 Respondent was subsequently arrested by the San Diego State University Police for
10 attempted burglary and possession of burglary tools.

11 i. On or about May 30, 2002, a complaint was filed in
12 Superior Court of California, County of San Diego, Central Division, entitled *The*
13 *People of the State of California v. Jennifer Faith Sterns*, Case No. CD167640,
14 charging respondent with Count 1 - violating Penal Code section 459 and Penal
15 Code section 664 [Attempt Burglary, Residential]; Count 2 - violating Penal Code
16 section 594(a)(b)(2)(A) [Vandalism Under \$400]; Count 3 - violating Penal Code
17 section 466 [Possession of Burglar=s Tools].

18 j. On or about September 18, 2002, respondent pled guilty
19 and was convicted of Count 1 [Penal Code section 459/664 - pursuant to Penal
20 Code section 17(b)(5)] and Count 2 [Penal Code section 594(a)(b)(2)(A)]. She
21 was sentenced to summary probation for three years and ordered to serve 3 days
22 in jail.

23 **SECOND CAUSE FOR DISCIPLINE**

24 (Use/Administering of a Controlled Substance)

25 12. Respondent is further subject to disciplinary action under Code sections
26 2239, 2660(g), 2660(i), and CCR, title 16, sections 1399.370(a) and (c), in that she used and/or

1 administered to herself a controlled substance and/or the use of any of the dangerous drugs
2 specified in Section 4022, to the extent, or in such a manner as to be dangerous or injurious to
3 the licensee, or to any other person or to the public, or to the extent that such use impairs the
4 ability of the licensee to practice medicine safely, or more than one misdemeanor or any felony
5 involving the use, consumption, or self-administration of any of the substances referred to in this
6 section, as more particularly described in paragraphs 11(a) through 11(c) and 15 (a) through 15
7 (b), which are incorporated herein in their entirety.

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11 THIRD CAUSE FOR DISCIPLINE

12 (Habitual Intemperance/Addiction)

13 13. Respondent is further subject to disciplinary action under Code sections
14 2660(f), 2660(g), 2660(i) and CCR, Title 16, sections 1399.20 (a) and (c), in that respondent has
15 demonstrated habitual intemperance and addiction with the excessive use of a controlled
16 substance by her convictions involving controlled substances; failing to enroll, attend, and
17 successfully complete a substance abuse program as ordered by the Court (paragraph 11(c)), and
18 as more particularly described in paragraphs 11(a) through 11(c) and 15(a) and 15(b), which are
19 incorporated herein in their entirety.

20 FOURTH CAUSE FOR DISCIPLINE

21 (Dishonest Acts)

22 14. Respondent is further subject to disciplinary action under Code sections
23 2660(l), 2660(i), and CCR, title 16, sections 1399.370(a) and (c), in that respondent was
24 dishonest when she stole from a tip jar and money from laundromat coin boxes, and wrote a
25 statement stating she had no previous charges on her record. The circumstances are as follows:

26 a. Complainant incorporates paragraphs 11 - 13 above as if

1 fully realleged.

2 b. On February 2, 2003, respondent wrote a statement to the
3 Board stating AJudge Judith Hayes ruled that this could not have been a burglary
4 attempt and dismissed the charges - case was reduced to a misdemeanor because I
5 was carrying a screwdriver to start my truck, which I was just trying to get
6 through a church to get to on Memorial Day. **I had no previous charges on**
7 **record.**@ Respondent was dishonest when she wrote this statement because she
8 was charged and convicted of violating Penal Code section 459 and Penal Code
9 section 664 [Attempt Burglary, Residential]; Count 2 - violating Penal Code
10 section 594(a)(b)(2)(a) [Vandalism Under \$400], as more particularly described
11 in paragraphs 11(h) through 11(j).

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13 **AGGRAVATING CIRCUMSTANCES**

14 15. On or about October 31, 2002, La Mesa police responded to a report
15 regarding a suspicious motor home. The officer found respondent and her companion inside the
16 motor home. During a search of the motor home, the officer located a backpack belonging to
17 respondent. Inside the backpack was a glass pipe inside a clear plastic sandwich bag. Next to
18 the pipe was a green leafy like substance which appeared to be Marijuana. A presumptive test of
19 the residue found on the pipe produced a positive result for the presence of amphetamine. A
20 presumptive test of the green leafy substance tested positive for Marijuana. Respondent was
21 charged with violating Health and Safety Code section 11357(b) and Health and Safety Code
22 section 11364 and was released with Notice to Appear on December 10, 2002, Citation No.
23 100152 .

24 a. On or about November 15, 2002, a complaint was filed in
25 Superior Court, County of San Diego, East County Division, entitled *The People*
26 *of the State of California v. Jennifer Faith Sterns*, Case No. CT C226088,

1 charging respondent with Count 1 - violating Health and Safety Code section
2 11364 [Possession of Paraphernalia Used for Narcotics] and Count 2 - violating
3 Health and Safety Code section 11357(a) [Possession of Marijuana].

4 b. On or about December 23, 2002, a warrant was issued for
5 respondent=s arrest pursuant to Penal Code section 853.7 with a \$1,000 bail for
6 respondent=s failure to appear as promised in Citation No. 100152.

7 **Arrest of March 31, 2003/Pending**

8 16. On or about March 31, 2003, respondent was arrested for committing four
9 commercial burglaries by forcing entry into coin boxes at laundromats and stealing coins. The
10 burglaries were committed from approximately March 9, 2003, through March 23, 2003.
11 Respondent admitted to La Mesa police that she committed the burglaries. Due to the arrest
12 being so recent, the case is pending.

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15 **PRAYER**

16 WHEREFORE, Complainant requests that a hearing be held on the matters herein
17 alleged, and that following the hearing, the Physical Therapy Board of California issue a
18 decision:

19 1. Revoking or suspending Physical Therapist Assistant License No. AT
20 2917, issued to JENNIFER STERNS;

21 2. Ordering JENNIFER STERNS to pay the Physical Therapy Board of
22 California the reasonable costs of the investigation and enforcement of this case, pursuant to
23 Business and Professions Code section 2661.5;

24 3. Taking such other and further action as deemed necessary and proper.

25 DATED: June 3, 2003

26 Original signed by Steven K. Hartzell
STEVEN K. HARTZELL
Executive Officer

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Physical Therapy Board of California
Department of Consumer Affairs
State of California
Complainant

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